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7 UNITED STATES DISTRICT COURT FOR THE  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 EQUAL EMPLOYMENT OPPORTUNITY  
11 COMMISSION,

12 Plaintiff,

13 v.  
14

15 SMARTTALENT LLC,

16 Defendant.

CIVIL ACTION NO.

COMPLAINT AND JURY TRIAL  
DEMAND

17 NATURE OF THE ACTION  
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19 This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil  
20 Rights Act of 1991 to correct unlawful employment practices on the basis of sex (female) and to  
21 provide appropriate relief to a class of female workers who were adversely affected by such  
22 practices. As alleged with greater particularity below, Plaintiff U.S. Equal Employment Opportunity  
23 Commission (“Commission” or “EEOC”) alleges that since at least January 1, 2015, Defendant  
24 SmartTalent LLC (“Defendant” or “SmartTalent”) has engaged in a pattern or practice of  
25 discrimination in hiring and job assignments because of sex (female) in violation of Title VII.  
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JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Sections 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e-5(f)(1) and (f)(3) and 2000e-6 (“Title VII”), and pursuant to Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Western District of Washington.

PARTIES

3. Plaintiff U.S. Equal Employment Opportunity Commission is the agency of the United States of America charged with the administration, interpretation and enforcement of Title VII, and is expressly authorized to bring this action by Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. §§ 2000e-5(f)(1) and (3), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

4. Defendant SmartTalent is a staffing agency headquartered in Gig Harbor, Washington, and operates branch offices located in Kirkland, Renton, Lynwood, Fife and Lacey.

5. At all relevant times, SmartTalent has been a corporation continuously doing business in the State of Washington and employing at least fifteen (15) employees.

6. At all relevant times, Defendant has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e-(b), (g) and (h).

ADMINISTRATIVE PROCEDURES

7. More than thirty (30) days prior to the institution of this lawsuit, a former employee filed Charge No. 551-2016-01073 with the EEOC alleging that Defendant violated Title VII.

8. On February 26, 2020, the Commission issued to Defendant an administrative determination finding reasonable cause to believe Defendant violated Title VII and invited Defendant to join with

1 the Commission in informal methods of conciliation to endeavor to eliminate the unlawful  
2 employment practices and to provide appropriate relief.

3 9. The EEOC then communicated with SmartTalent to provide SmartTalent the opportunity to  
4 remedy the discriminatory practices described in the EEOC's Letter of Determination.

5 10. The EEOC was unable to secure from Defendant a conciliation agreement acceptable to the  
6 Commission.

7 11. On August 6, 2021, the Commission issued to Defendant a Notice of Failure of Conciliation.

8 12. All conditions precedent to the institution of this lawsuit have been fulfilled.

#### 9 STATEMENT OF CLAIMS

10 13. Since at least January 1, 2015, Defendant has subjected a class of female workers to a  
11 pattern or practice of discrimination by not hiring or placing females into certain temporary staffing  
12 assignments with Defendant's business clients due to their sex in violation of Sections 703(a)(1) and  
13 703(a)(2) of Title VII, 42 U.S.C. §§ 2000e-2(a)(1) and (a)(2).

14 14. Since at least January 1, 2015, Defendant has discriminated against a class of aggrieved  
15 female workers by not hiring or placing females into certain temporary staffing assignments with  
16 Defendant's business clients due to their sex in violation of Sections 703(a)(1) and 703(a)(2) of Title  
17 VII, 42 U.S.C. §§ 2000e-2(a)(1) and (a)(2).

18 15. Since at least January 1, 2015, Defendant has received emails from its business clients that  
19 included sex specific requests for male workers such as: "needs to be a guy," "strong dudes," "guys  
20 only," "young guys," "strong guy," "2 guys—preferably young/energetic," "good solid dudes".

21 16. Since at least January 1, 2015, Defendant's recruiters sent internal emails seeking to fill  
22 positions that specified the sex of the worker to comply with business clients' requests for male  
23 workers.

24 17. Internal emails among SmartTalent's recruiters seeking to comply with sex based requests  
25 for male workers contained language such as: "1 gentleman," "8 gentlemen for striking and setting,"  
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1 and “Honestly, I don’t think I can get another guy for tomorrow—all our labor guys are going to  
2 COB”.

3 18. Since at least January 1, 2015, Defendant’s Branch Managers sent internal emails seeking to  
4 staff positions specifying that male workers were needed to fill business clients’ positions.

5 19. Internal emails from SmartTalent managers to its recruiters included language such as: “We  
6 have 5 openings here at this time. Really could use some help. Guys Only”; “a couple of big strong  
7 guys to load”; and “If you have 1-2 labor guys could you please let us know”.

8 20. Since at least January 1, 2015, Defendant has regularly placed male workers that complied  
9 with its business clients’ sex-based requests which denied female workers employment  
10 opportunities.

11 21. Since at least January 1, 2015, Defendant’s managers instructed recruiters at staff meetings to  
12 comply with the sex-based requests of their business clients when filling positions.

13 22. When a recruiter raised a concern that complying with sex-based requests of business clients  
14 may be discriminatory, her Branch Manager told her that it was important to do what was necessary  
15 to make the business client happy.

16 23. A recruiter witnessed a Branch Manager getting upset with a recruiter who attempted to fill a  
17 position with a female worker when the business client had requested a male worker.

18 24. A recruiter witnessed a Branch Manager tell another recruiter who raised concerns about  
19 complying with discriminatory requests to “shut up and do her job,” and “stop complaining.”

20 25. A Branch Manager admonished a recruiter by email for trying to place a male worker into a  
21 job that a female could do rather than place him into a stocking position in a warehouse which “only  
22 men can do.”

23 26. Since at least January 1, 2015, Defendant’s recruiters have communicated to female workers  
24 that certain positions were not available to them or would not be a good placement based on their  
25 sex, female.  
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1 27. A recruiter told a female worker that labor-intensive jobs would be too hard for her.

2 28. A recruiter told a female worker who asked to fill a warehouse position that the job would  
3 not be a good fit for her. The recruiter also told this female worker that warehouse jobs are mainly  
4 for men, that they didn't think it was a 'woman's job' and that SmartTalent would never put females  
5 in the warehouse because that is not where females belong.  
6

7 29. A female worker, who had a brother who also worked for SmartTalent, would immediately  
8 call SmartTalent asking to fill positions he was unable to fill. The recruiters would tell her nothing  
9 was available.

10 30. A female worker, whose husband also worked for SmartTalent, would call SmartTalent to  
11 offer to fill jobs when he was unable to take them. She was told "[n]o, we have another candidate if  
12 he wasn't going to take it." She had both labor and warehouse experience but was not offered any  
13 temporary jobs.

14 31. A female worker was steered her away from certain jobs because of her sex by a recruiter  
15 who made comments such as, "this is a guy's field." She was always assigned to jobs working with  
16 other female workers.

17 32. The result of the course of conduct identified in paragraphs 13-31, Defendant has hired  
18 and/or assigned or placed female workers into certain positions with business clients at substantially  
19 lower rates compared to male workers.  
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21 33. Since at least January 1, 2015, Defendant has subjected female workers to a pattern or  
22 practice of discriminatory failure to provide female workers with job placements and assignments  
23 because of their sex, female, in violation of Title VII.

24 34. The effect of the unlawful employment practices identified in Paragraphs 13-31, above, has  
25 been to deprive a class of aggrieved female workers of equal employment opportunities and  
26 otherwise adversely affecting their status as job applicants, potential job applicants, and employees  
27 because of their sex, female.  
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1 35. The unlawful employment practices complained of in Paragraphs 13-31, above, were  
 2 intentional.

3 36. The unlawful employment practices complained of in Paragraphs 13-31 above, were done  
 4 with malice or with reckless indifference to the federally protected rights of a class of female  
 5 workers.  
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7 PRAYER FOR RELIEF

8 Wherefore, the Commission respectfully requests that this Court:

9 A. Grant a permanent injunction enjoining Defendant, its officers, successors, assigns, and all  
 10 persons in active concert or participation with it, from engaging in sex discrimination, including  
 11 denial of hire, job assignment or work duty assignment based on sex; recruiting techniques that  
 12 discriminate based on sex (female); and any other employment practice that constitutes  
 13 discrimination because of sex (female).

14 B. Order Defendant to institute and carry out policies, practices, and programs which provide  
 15 equal employment opportunities for all female workers and that eradicate the effects of its past and  
 16 present unlawful employment practices.

17 C. Order Defendant to make whole a class of aggrieved female workers by providing back pay  
 18 with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary  
 19 to eradicate the effects of its unlawful employment practices, including but not limited to the  
 20 instatement and front pay in lieu thereof.

21 D. Order Defendant to make whole a class of aggrieved female workers by providing  
 22 compensation for past and future pecuniary losses resulting from the unlawful employment practices  
 23 described in Paragraphs 13-31, above, in amounts to be determined at trial.

24 E. Order Defendant to make whole a class of aggrieved female workers by providing  
 25 compensation for past and future non-pecuniary losses resulting from the unlawful practices  
 26 complained of in Paragraphs 13-31, above, including emotional pain, suffering, inconvenience,  
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mental anguish, loss of enjoyment of life, and other non-pecuniary losses, in amounts to be determined at trial.

F. Order Defendant to pay a class of aggrieved female workers punitive damages for the malicious and reckless conduct described in Paragraphs 13-31, above, in amounts to be determined at trial.

G. Grant such further relief as the Court deems necessary and proper in the public interest.

H. Award the Commission its costs of this action.

### JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its Complaint.

Dated this 5th day of August, 2022.

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Attorneys for Plaintiff



**CERTIFICATE OF SERVICE**

I hereby certify that on this date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system.

DATED this 5th day of August, 2022.

/s/ Jimmy Yen

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Legal Assistant

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